

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 20037 |
| [REDACTED], |) | |
| |) | DECISION |
| Petitioners. |) | |
| _____ |) | |

On December 12, 2006, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for tax years 1996 through 2002 in the total amount of \$14,145.

The taxpayer protested the determination. He did not request a hearing, but did provide additional information. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

Idaho Code § 63-3030 states:

63-3030. Persons required to make returns of income.--

(a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

Information available to the Tax Commission indicated the taxpayer was an Idaho resident with a requirement to file an Idaho individual income tax return for each of the years at issue. Because the Tax Commission's files did not include the taxpayer's Idaho individual income tax

returns, the Bureau prepared Idaho returns on the taxpayer's behalf and issued a notice of deficiency.

The taxpayer appealed the determination.

In the letter of appeal, the taxpayer said he did not file his returns for the years 1996 through 2003 because he thought they were taken care of when he filed his chapter 7 bankruptcy. After reviewing federal Bankruptcy Code § 523, the taxpayer contacted the Bureau to ask for copies of his W-2 forms. He said he felt that his bankruptcy attorney misled him. Subsequently, he filed his Idaho individual income tax returns for 1996, 2001, and 2002. The Bureau notified the taxpayer that the returns were accepted as filed and the portion of the NODD addressing the years 1996, 2001, and 2002 was canceled.

After allowing the taxpayer time to prepare the balance of the missing returns, the taxpayer's file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayer did not respond to a letter from the Tax Policy Specialist wherein he was advised of his rights regarding his appeal. To date, the taxpayer's 1997 through 2000 Idaho individual income tax returns have not been filed with the Tax Commission.

The Bureau calculated the taxpayer's Idaho income tax responsibility using the information contained in the records of [Redacted] the Tax Commission. [Redacted].

No withholding was identified. The interest and penalty calculated pursuant to Idaho Code §§ 63-3045 and 63-3046 were reviewed and found to be proper and in accordance with Idaho Code.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated December 12, 2006, is hereby
MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pays the following tax, penalty,
and interest:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|--------------|
| 1997 | \$ 996 | \$249 | \$637 | \$ 1,882 |
| 1998 | 1,229 | 307 | 691 | 2,227 |
| 1999 | 1,360 | 340 | 666 | 2,366 |
| 2000 | 2,213 | 553 | 906 | <u>3,672</u> |
| | | | TOTAL DUE | \$10,147 |

Interest is calculated through October 1, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2007, served a copy of the
within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an
envelope addressed to:

[Redacted]

[Redacted]

[Redacted]